

## **AML ADVISORY COMMITTEE**

### **Minutes Semi-Annual Meeting September 8, 2004**

A regular meeting of the AML Advisory Committee was called to order at the Powell River Project Pavilion at 3:00 p.m. pursuant to the notice sent to all committee members.

The following members and visitors were present: Phil Shelton, UVA College at Wise; Wade Biddix United States Department of Agriculture; Bob Penn, Office of Surface Mining; Ian Dye, Office of Surface Mining; Shannon O'Quinn, Tennessee Valley Authority; Glenn Graham, Retiree NRCS; Carol Doss, Upper Tennessee Roundtable; Roger Williams, Richard Davis, and Benny Wampler, Department of Mines, Minerals and Energy.

Members absent: Jerry Baird, Alpha Natural Resources; Eddie Hannah, Lonesome Pine Soil and Water; Gerald Ramey, Consolidation Coal Company.

Phil Shelton presided, Roger Williams recorded the proceedings of the meeting, and Dawn Bays transcribed the minutes. Minutes of the April 15, 2004, were reviewed and approved.

New members recognized. Roger Williams gave a brief history of the AML Advisory Committee purpose and mission statement.

#### **DMLR PROGRAM UPDATE – Roger Williams**

Recently Congressman Boucher made a statement to the local newspaper that he is confident and hopeful that the AML Program will be extended for at least a year. Right now there are only two mechanisms to get the program extended due to the time. One is a continuing budget resolution in Congress to get the AML extension attached to a budget deal. The other is to get it attached to some form of legislation. The problem with the continuing resolution is that most of those are very time sensitive. That appears to be the most viable option right now to be attached to a budget extension over and over again until a final federal budget is passed. Administratively, it will cause problems for OSM and they will probably wait until the end of the year before they collect taxes.

The other AML extension option is the legislation. There are currently four bills introduced in Congress on AML reauthorization. One proposal is the Bush Administration's proposal, which has been sponsored on the House side by Peterson and Sherwood, representatives from Pennsylvania and on the Senate side by Sen. Spector of Pennsylvania. It takes the money from the highest coal producing states like Wyoming and transfers it back to the states that have problems. That is controversial and it doesn't have support of West Virginia and Wyoming, which are two of the principal coal producers. An alternative piece of legislation is called the Cuban Rehall Bill. It is a bill

that keeps the money going back to the states where it is produced, but comes up with some alternatives on focusing on priorities and limits flexibility on doing priority three-type work. All the bills do three things, extend the program, reduce the AML tax on industry, and transfer interest from the AML to the United Mine Workers Health Care Benefit Fund. On September 15, 2004, there is going to be a mark-up on the Sen. Thomas Bill on the Senate side. It has been scheduled five times before, so far nothing has happened. Because it deals with finances and the United Mine Workers Benefit Fund, the Senate Finance Committee has written the Natural Resource Committee and informed them that if it deals with the United Mine Workers Fund it will also have to come through the Senate Finance Committee. This makes it even more difficult for this option to be successful.

We will probably know more by the middle or end of this month about which direction it will go. According to most articles, Congress wants the program extended. Most of the speculation is that this will be it; the continuation will be the end of AML. Twelve to fifteen years will be the limit. Things can change, but that is the agreement with industry at this time. That will give us an opportunity to partner over the next 12 years on trying to refocus our efforts. Where do we want to take these programs and what is the best strategy for the remainder of time with the efforts we have. This will be a challenge. We have looked at a new program with NRCS, PL566 Program. We have some opportunities there, and we are currently working with the Army Corps of Engineers also. They are hopeful in getting funding next year through the Water Resource Development Act to match with some AML clean streams money for the second phase of the acid mine drainage project down in Lee County. We are looking at another \$1-2 million construction project in the Lee County area addressing nothing but acid mine drainage. This has been a major partner effort in cleaning up some acid mine drainage.

We have applied the full 30% of our AML funding each year to public water supply projects for areas damaged by AML. This has been a major boost to localities. This amounts to about \$1.2 million per year. We have been trying to share the money around to get the most people water the quickest, so we have been funding two projects, each year. One project in the Lenowisco Planning District area and one in the Cumberland Plateau. The bulk of AML money is going toward water right now, 30% for public water and another 10% on acid mine drainage. There is probably another 10% for the Appalachia Clean Streams Initiative that Congress puts in the appropriations bill. So about half of the money is going toward water improvement. Sometimes that gets lost in the discussion.

### **Priority Three – Richard Davis**

Appreciation was extended to Shannon O'Quinn, of TVA, for his help in the priority three projects. He was able to come up with \$100,000 from TVA funding for the Ely Creek Acid Mine Drainage project. That was a significant amount of money for our budget for this project. Carol Doss is well known for her efforts with the Wise County Clean Team and the Guest River Restoration Project and she is now the Coordinator of

the Upper Tennessee Upper River Roundtable. This is an umbrella organization of the local watershed groups, citizens, and businesses.

The Fish and Wildlife Service has \$450,000 in grant money available for stream restoration projects as part of the Lone Mountain settlement with the Fish and Wildlife Service over a slurry spill in 1996, in partnership with Carol's organization. DMME submitted last week two projects to get part of this money. The Roundtable also submitted two AML projects in the North Fork Powell Watershed.

A handout PowerPoint presentation was given on AML No Cost Agreements. The idea was to have an active surface or underground mine reclaim abandoned mine land with excess spoil rather than putting all the spoil into a valley fill. We will never get priority three's reclaimed unless we look at innovative ways such as no cost agreements. A regulatory mechanism allows companies to do AML reclamation through no cost agreements disposing of excess spoil on abandoned mine lands. We have reclaimed over 17,000 feet of priority three highwall. This is an area that otherwise would have never been reclaimed. We kept a half million cubic yards of spoil out of excess spoil fills. Two projects have been completed, seven are in the works now and we have three pending projects.

In 1999, OSM realized there wasn't going to be enough money in the AML fund to accomplish all reclamation needed. OSM came out with a new rule called AML Enhancement. The AML Enhancement rule changed the government finance from permitting requirements for incidental coal removal exemption so that on abandoned mine land reclamation projects there can be exemptions. The government financing would be less than 50% of the project's cost. It had been more than 50%, now it can be less. The first project that we used abandoned mine land enhancement was for the Buchanan County Park Highwall Elimination Project. This was not looked at as a mining operation but as a reclamation operation.

The AML Enhancement projects are ideally suited for gob pile removals. One hundred years of history of mining in VA has left numerous gob piles throughout the seven coal producing counties. A gob pile in Dickenson Co. is being reclaimed at minimal cost to AML through the AML Enhancement project.

Another project will be the elimination of a small highwall in Dickenson County, between Pound and Clintwood. We will get reclamation accomplished at minimal cost to the agency. Our contribution to the project budget would be a tree planting on the outcrops.

A project in Tazewell County, the Beech Fork Gob Pile elimination. Consol picked this gob pile up entirely and took to their preparation plant and recovered 60-70% coal from this pile. They reclaimed this five acre site.

We have three projects on-going at this time. One in Wise County, one in Dickenson and one in Buchanan County. We have eleven projects pending right now.

There is a lot of activity going on in abandoned mine land enhancement. I think by this time next year we will have maybe 13-14 projects on-going. There is an excellent opportunity now to reclaim a lot of abandoned mine land features that otherwise would never be reclaimed. Lately these projects have been so attractive, that contractors have been contacting us. There is money to be made in these projects, but also, there is risk. Our agency will not guarantee the contractor will find any coal. There are risks and awards on these projects.

### **NRCS RAMP PROGRAM and PL566 PROGRAM – Wade Biddix**

RAMP is more or less on the down swing and on the way out. Mr. Biddix has spoken with the head of the RAMP Program in Washington and at this time there is about 20 active contracts with landowners in the country. There is only about \$15,000 left. According to Jerry Houston and Billy Baird there were about five projects done in VA prior to RAMP. Since the RAMP Program, we have spent almost four million dollars in RAMP in Virginia, \$3,947,000.

The PL566 Program (Public Law 566) is a watershed program. This program will apply anywhere in the country. The program has just had its 50<sup>th</sup> anniversary. The program was enacted by Congress in 1954, and it has been used for flood control projects, land treatment projects, and building water supply reservoirs in conjunction with flood control. Watkins Branch near Grundy has one flood control dam planned under this program. Lick Creek at Dante in Russell County has two dams and some channel work for flood control there, but there are some mineral rights issues. One hundred-fifty dams in Virginia have been built with PL566, mostly in the Piedmont and in southwest Virginia, and one in the North Fork of Powell in Lee County has just been added.

The agency was asked and application made by Lee County, Daniel Boone Soil and Water Conservation District and the DMME to look at abandoned mined land areas, acid mine drainage, and critical areas for eroding abandoned mine lands to see if funding a project there was possible. A public meeting was held last month at St. Charles Community Center, and it will probably take about a year to put a plan

The 566 Program is a 65/35 cost share ( 65% federal 35% non-federal). The non-federal funds can come from state, local, or other matching funds. The North Fork of the Powell is part of the watershed protection projects. There was \$100,000 turned back this year. If a project can be obtained then there might be funding opportunities for the program. It does not get funded every year, but it depends on what is going on such as a flood control project, a channel job, or stream restoration. These watershed protection projects typically deal with fencing streams, field and water facilities for livestock, erosion control on crop or pasture land, revegetation, planting trees things like that. It is unusual to have money turned back. Some of these projects have been around for several years, so there needs to be an AML project in the North Fork of Powell. Pennsylvania, Tennessee and some other states are using PL566 on abandoned mine land projects and there are copies of what they have done and proposals they submitted, so if a good proposal is put together it could get funded.

DMME is attempting to locate sites that would be a good fit to move from a planning stage into an on-the-ground phase as quick as possible. DMME will need some funding partners. This is another partnering strategy too good to pass by.

### **COMMITTEE BUSINESS**

Bob Penn expressed appreciation for the tour prepared for the Assistant Secretary of Interior. Appreciation was extended to Roger Williams and leadership in the AML Program.

Richard Davis discussed the Appalachian Regional Reforestation Initiative. Virginia is participating in that both in the regulatory program and the AML program. AML will adopt these guidelines for the forestry reclamation approach wherever we can on the abandoned mine lands. Abandoned mine land projects often are not conducive to tree planting. It might be a project in someone's backyard, a subsidence hole, or a portal and the landowner might not want trees planted. When we can we will plant trees following to the extent practical the forestry reclamation approach. An update to the carbon sequestration project with the Nature Conservancy, that is a funded project of \$500,000 is in the bank now in the Nature Conservancy's account. A site has been selected and we hope to obtain a conservation easement from a large landowner, the Forest Land Group. We still have some hope of planting trees in early 2006 for carbon sequestration. There is enough money that we will probably be able to do a second site and we are looking at sites for landowner negotiations now for site number two.

Benny Wampler explained that no new money will be available for emergency as of October 1<sup>st</sup>. We are already funded for 2005, after that, all that will be available will be what is in the state share, about \$26 million. The amount available each year is up to the appropriations of Congress. Our share will probably be around \$4 – 4.5 million a year. That would be enough for about five or six years.

A suggestion for the next meeting was to have a tour and/or photographic tour of the current projects underway.

The next meeting of the AML Advisory Committee will be in April, 2005. A notification of the next meeting will be sent to each member.

Meeting adjourned.

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Roger L. Williams,  
DMME Abandoned Mine Land Services Manager

